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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/727,072	12/02/2003	Andrew J. Ouderkirk	59416US002	4897
32692	7590	09/15/2005	EXAMINER	
3M INNOVATIVE PROPERTIES COMPANY PO BOX 33427 ST. PAUL, MN 55133-3427			QUARTERMAN, KEVIN J	
			ART UNIT	PAPER NUMBER
			2879	

DATE MAILED: 09/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/727,072	Applicant(s) OUDERKIRK ET AL.	
	Examiner Kevin Quarterman	Art Unit 2879	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 December 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 and 9 is/are rejected.
- 7) ☒ Claim(s) 8 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>1104; 0805</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference characters not mentioned in the description: Reference characters 84 of Fig. 9; 310 of Fig. 14; 512 of Fig. 16; 612 of Fig. 17; 810, 818, 820, and 824 of Fig. 19; 910, 912, 920, and 924 of Fig. 20; 1010, 1020, and 1024 of Fig. 21. Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Double Patenting

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225

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USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

3. A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).
4. Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).
5. Claims 1-7 and 9 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-3 of copending Application Pub. No. 2004/0145895 ('895) in view of McNulty US 6,686,676 ('676), as shown in Table 1.
6. This is a provisional obviousness-type double patenting rejection.

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Table 1

Instant Application	Pub. No. '895	McNulty '676	Discussion of Differences
Claim 1	Claim 1	Fig. 5; col. 4, ln. 54-61	Claim 1 of the instant application includes an optically transparent body, which is not cited in the claims of Pub. '895. Figure 5 of McNulty teaches an optically transparent body (30, 32).
Claim 2	Claim 2	Same as above	Same as above
Claim 3	Claim 3	Same as above	Same as above
Claim 4	Claim 1	Fig. 5	Claim 4 of the instant application cites the phosphor material uniformly disposed on or in the optically transparent body, which is not cited in the claims of Pub. '895. Figure 5 of McNulty shows the phosphor material (26) uniformly disposed on or in the optically transparent body (30, 32).
Claim 5	Claim 1	Fig. 5	Claim 5 of the instant application cites the phosphor material non-uniformly disposed on or in the optically transparent body, which is not cited in the claims of Pub. '895. Figure 5 of McNulty shows the phosphor material (26) disposed on or in the optically transparent body (30, 32).
Claim 6	Claim 1	Fig. 5	Claim 6 of the instant application cites the phosphor material disposed within the optically transparent body adjacent the LED and the optically transparent body having a second region spaced away from the LED where phosphor is not present, which are not cited in the claims of Pub. '895. Figure 5 of McNulty shows phosphor material (26) disposed within the optically transparent body (30) adjacent the LED (20) and the optically transparent body having a second region (32) spaced away from the LED where phosphor is not present
Claim 7	Claim 1	Fig. 5	Claim 7 of the instant application cites the phosphor material disposed within the optically transparent body and spaced away from the LED, which is not cited in the claims of Pub. '895. Figure 5 of McNulty shows the phosphor material (26) disposed within the optically transparent body and spaced away from the LED (20).
Claim 9	Claim 1	Fig. 5	Claim 9 of the instant application cites the phosphor material disposed on the optically transparent body and the non-planar flexible multilayer reflector disposed on the phosphor material, which is not cited in the claims of Pub. '895. Figure 5 of McNulty shows the phosphor material (26) disposed on the optically transparent body (30) and the non-planar flexible multilayer reflector (70) disposed on the phosphor material.

Allowable Subject Matter

7. Claim 8 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

8. The following is a statement of reasons for the indication of allowable subject matter: The prior art of record neither shows or suggests a light source comprising, in addition to other limitations of the claim, phosphor material disposed on an optically transparent body, the phosphor material having a first thickness or first density that is greater at a first angle normal to the excitation light than a second thickness or second density at a second angle non-normal to the excitation light.

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Contact Information


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kevin Quarterman whose telephone number is (571) 272-2461. The examiner can normally be reached on M-TH (7-5:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nimesh Patel can be reached on (571) 272-2457. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Kevin Quarterman
Examiner
Art Unit 2879

kq 
20 August 2005


Joseph Williams
Primary Examiner
Art Unit 2879